IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1443 OF 2002

Vilas Pandurang Hadgale ...Appellant

Vs.

Maharashtra Housing Area
Development Authority ...Respondent

WITH
FIRST APPEAL NO.1445 OF 2002

Rangrao Keshao Patil ...Appellant

Vs.

Maharashtra Housing Area
Development Authority ...Respondent

AND FIRST APPEAL NO.1451 OF 2002

Sadashiv Shivram Ghevde ...Appellant

Vs.

Maharashtra Housing And Area
Development Authority ...Respondent

Mr.P.G.Karande for the Appellant
Ms G.P.Mulekar, A.G.P.

CORAM: A.S.OKA, J.

DATED: AUGUST 9, 2004.

P.C.:

1. As the facts involved in the three Appeals are more or less identical, the same are taken up for hearing together and are being disposed of by a common Judgment and Order.

2. For the sake of convenience a reference is made to the facts in First Appeal No.1443 of 2002. A suit was filed by the Appellant-Plaintiff for declaration that he be declared as occupant of a shop premises as contemplated by the Maharashtra Housing and Area Development Act, 1976. The case of the Appellant is that he is carrying on business in the shop premises. The contention is that the shop premises was in existence when the Award was passed for acquisition of the land.

3. The Trial Court held that there was no convincing evidence adduced by the Appellant to show that the suit structure was in existence at the time of acquisition. On this ground only the Trial Court held that the Appellant is not entitled to declaration which he has claimed.

4. I have perused the compilation of the documents placed on record of the City Civil Court. I have also heard the learned Counsel for the parties extensively. I have gone through the pleadings with the assistance of the Counsel appearing for the parties. The learned Counsel for the Appellant placed reliance on rent receipts in respect of the suit structure issued by the landlord and also relied upon the registration certificate allegedly issued in his favour under the Weights and Measures Act. I find that none of the documents are proved by the Appellant in accordance with

provisions of Indian Evidence Act,1872. No attempt is made to examine the landlord of the Appellant. Therefore, the learned Trial Judge was right when he recorded a finding that there is absolutely no evidence on record to show that the suit structure was in existence at the time of acquisition.

5. In so far as other two Appeals are concerned I have examined the documents on record of the Trial Court as well as notes of evidence. In the said two cases also the Trial Court has rightly held that no evidence is led by the Appellants therein to show that the suit structures were in existence at the time of acquisition.

6. Shri Karande the learned Counsel for the Appellants submitted that in case of Appellants in all three Appeals, the proceedings are pending before the Grievance Committee of the Respondent. He submitted that the Grievance Committee has found that the Appellants are eligible for grant of alternate accommodation. The learned A.G.P. submitted that the eligibility of the Appellants on merit is not at all decided by the Grievance Committee. The learned A.G.P. pointed out the minutes of the meeting of the Grievance Committee held on 30th June 2004 in which it is recorded that it will not be proper for the Grievance Committee to take any decision as the present Appeals are pending.

7. Though there is no merit in the First Appeals, the case

of the Appellants will have to be considered and decided in accordance with law by the Grievance Committee.

8. In the light of discussion made above, I pass the following order :

i) The Appeals are dismissed with no order as to costs.

ii) Notwithstanding the dismissal of the Appeals, the Grievance Committee will decide the case of the Appellants in accordance with law without being influenced by the dismissal of the First Appeals.

iii) The Grievance Committee is expected to decide the matters within a period of three months from today.

iv) As the Grievance Committee is to decide the matters within a period of three months from today, order of status quo passed by this Court on 30th June 2004 will continue to operate for a period of four months from today.

v) Parties to act upon ordinary copy of the order duly authenticated by the Court Sheristedar.

Judge.